

Application No. 09/423,131
Amendment "I" dated April 27, 2006
Reply to Office Action mailed October 28, 2005

REMARKS

These remarks and the accompanying amendments are responsive to the Office Action made final and mailed October 28, 2005 (hereinafter referred to as the "Office Action"), and the Advisory Action mailed April 4, 2006. At the time of the last examination, Claims 3-8, 10, 20 and 24-26 were pending. By this amendment, Claims 24-26 are cancelled, leaving only Claims 3-8, 10 and 20 for further consideration. Of these remaining claims, Claims 3, 4 and 10 are independent claims, and Claims 3-5, 7, 8, 10 and 20 are amended.

Section 2 of the Office Action rejects all of the Claims 3-8, 10, 20 and 24-26 under 35 U.S.C. 112, second paragraph as being indefinite. In particular, the Office Action states that "a burst mode at a period proper to the data" of old claims 3, 4, 10, 24, 25 and 26 is not clear, because a burst mode is usually defined as a way of doing data transmission in which a continuous block of data is transferred between main memory and an input/output device without interruption until the transfer has been completed, i.e. no period.

However, as shown in the attached drawing included as Exhibit A, "data takes place in a burst mode at a period proper to the data" of old claims 3, 4, 10, 24, 25 and 26 means that data takes place plural times in a burst mode, and the interval between n-th data occurrence in a burst mode and (n+1)-th data occurrence in a burst mode is a period (interval) proper to the data.

In order to further clarify the claims, the claims are amended such that the phrase "data takes place in a burst mode at a period proper to the data" reads instead "data takes place in a burst mode at every intervals proper to the data". Entry of these amendments is respectfully requested. The amendments to the claims render the claims not indefinite, and thus withdrawal of the 35 U.S.C. 112, second paragraph rejection is respectfully requested.

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Sections 3, 4 and 5 of the Office Action reject Claims 4, 8, 10, 25 and 26 under 35 U.S.C. 103(a) as being unpatentable over United States patent number 5,978,380 issued to Kobayashi et al. (hereinafter, "Kobayashi") in view of United States patent number 6,192,031 issued to Reeder et al. (hereinafter, "Reeder"). The rejection is moot with respect to cancelled Claims 25 and 26, but remains with respect to Claims 4, 8 and 10.

The Office Action asserts (at page 6) that Kobayashi discloses all the subject matter recited in Claim 4 with the exception of the traffic control taking place at a time and the traffic monitoring time being a period and cycle proper to the data, but further asserts that Reeder teaches that it is known to provide the traffic control taking place at a time and the traffic monitoring time being a period and cycle proper to the data (column 4, lines 11-27). Thus, the Office Action concludes, the present invention of claim 4 is obvious over Kobayashi and Reeder.

However, as recited in Claim 4 as amended herein, data takes place "in a burst mode at every intervals proper to the data", and the traffic control unit carries out "traffic control ... in a traffic monitoring period defined by taking account of said intervals proper to the data ...".

The portion of Reeder to which the Office Action refers (i.e., Reeder, column 4, lines 11-27) only discloses that monitoring is carried out in a suitable period. That is, it does not disclose that data takes place in a burst mode at every intervals proper to the data. Also, Reeder does not disclose a traffic monitoring period defined by taking account of the intervals proper to the data.

Since even the combination of Reeder and Kobayashi do not disclose that data takes place in a burst mode at every intervals proper to the data, and a traffic monitoring period defined by taking account of the intervals proper to the data, Claim 4 is not unpatentable over

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even the combination of Reeder and Kobayashi. Thus, Claim 4 is not unpatentable over Kobayashi in view of Reeder.¹

Claim 8 depends from Claim 4 and is thus not unpatentable over Kobayashi in view of Reeder at least for the reasons provided for Claim 4. Claim 10 also recites that data takes place "in a burst mode at every intervals proper to the data", and the traffic control method carries out "traffic control ... in a traffic monitoring period defined by taking account of the intervals proper to the data ...". Thus, Claim 10 is similarly not unpatentable over the Kobayashi in view of Reeder.

Therefore, Claims 4, 8 and 10 are not unpatentable over Kobayashi in view of Reeder, and thus withdrawal of the 35 U.S.C. 103(a) rejection is respectfully requested.

Section 6 of the Office Action indicated that Claims 3, 20 and 24 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. 112, second paragraph. It is respectfully submitted that Claim 3 and 20 have been so amended, and thus are in allowable form.

Section 7 of the Office Action indicated that Claims 5-7 would be allowable if rewritten or amended to overcome the rejection under 35 U.S.C. 112, second paragraph, and to include all of the limitations of the base claim and any intervening claim. Claims 5-7 have been amended to overcome the rejection under 35 U.S.C. 112, second paragraph. However, since Claims 5-7 depend from Claim 4, which is in allowable form, it is respectfully submitted that Claims 5-7 are now in allowable form even though they are not amended to be in independent form.

¹ It is not necessary at this time to argue against the combination of Kobayashi and Reeder at this time, since even the combination does not teach or suggest all of the recited features of Claim 4. Thus, the absence of arguments against the combination in these remarks should not be construed as acquiescing that the combination is appropriate. The applicants may argue against the combination at a future time should this become necessary by a future Office Action.

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In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 27th day of April 2006.

Respectfully submitted,



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